

**REMARKS**

Claims 1-17 remain pending in this application. Further reconsideration is requested.

**35 U.S.C. § 112 Rejection**

The Advisory action indicated that the proposed amendments to the specification and drawings would be entered, but that the indefiniteness rejection of claims 10 and 11 nevertheless would be maintained. The rejection of claims 10 and 11 as being indefinite is traversed.

Claims 10 and 11 accurately set forth subject matter regarded as the invention. Anyone skilled in the art reading claims 10 and 11 would understand what is meant by the term "plurality of vessel receptacles" as set forth therein. Namely, a "vessel receptacle" is simply a mechanism on the belt that receives a vessel, so that the vessel is thereby able to be transported by the belt. Given that the belt transports vessels as disclosed, the belt clearly must include receptacles for receiving such vessels, otherwise the belt would be incapable of transporting vessels.

The Office action alleges that the specification does not disclose "a plurality of vessel receptacles." This is incorrect, because as shown in Fig. 2 and described in the specification, the belt 3 receives a plurality of vessels 5. Each of the vessel receptacles 3a that is capable of receiving such a vessel is clearly illustrated in Fig. 2, and described in the specification at paragraph 0029 of the specification.

Consequently, the claims are not indefinite as alleged as there is no uncertainty or confusion as to what is meant by the term "plurality of vessel receptacles." This term unambiguously refers to the receptacles 3a as shown in Fig. 2, which are the mechanisms by which the vessels are coupled to the belt so as to be transported. The Office action has failed to explain what other possible interpretation of the term "vessel receptacle" exists that would give rise to uncertainty or confusion by those skilled in the art. From the specification, drawings and claims as originally filed and considered as a whole as they would be by those skilled in the art, there is only possible interpretation of the term "vessel receptacle" and that is a mechanism for receiving a

vessel, which is what has been disclosed and illustrated in the specification. Withdrawal of this ground of rejection is requested.

### **35 U.S.C. § 102 Rejection**

The rejection of claims 1-17 as being anticipated by Babson et al., U.S. Patent No. 5,885,529 of record ("Babson"), is respectfully traversed. In particular, Babson fails to disclose a read station that is capable of rotating a transferred vessel from an entry position to a read position, where radiant energy emanating from the read station is detected by a detector, independently of motion of a plurality of vessels through a defined path as transported by a transport device, as recited in claim 1.

The Advisory action alleges that the claims as pending do not preclude the read station from including the luminometer chain 215a disclosed in Babson. Under the broadest reasonable interpretation standard, however, claims must be interpreted to be consistent with the specification as they would be by those of skill in the art, see In re Hyatt, 211 F.3d, 54 USPQ2d 1664 (Fed. Cir. 2000). Here, the specification discloses a read station 2, and also discloses a separate luminometer belt 3. See p. 7. The Babson reference also distinguishes between the reading station 216 and luminometer chain 215a that carries vessels to the reading station 216, as shown in Fig 2A thereof. It is therefore inconsistent with the specification and inconsistent with the Babson disclosure to interpret the claimed "read station" as including the luminometer chain 215a, as the luminometer chain is not considered by either the present specification or the Babson prior art reference as being part of the read station. Further, those of skill in the art reading claim 1 in light of the specification and in light of the Babson reference would not interpret the "read station" as including the luminometer chain or belt, which constitutes a transport mechanism for transporting the vessels to the read station.

Notwithstanding the impropriety of the claim interpretation, claim 1 is amended to recite that the transport device receives vessels from a wash station, as shown by Fig. 2 of the specification wherein transport device 3 receives vessels from wash station 6, and transports the vessels to read station 2. Accordingly, the chain 213b of Babson cannot be interpreted to correspond to the claimed transport device as the chain 213b


does not receive vessels from wash station 214, but to the contrary carries vessels to the wash station 214.

Consequently, even if the luminometer chain 215a continues to be erroneously construed as constituting the "read station," the Babson reference still fails to anticipate claim 1 because such interpretation precludes the luminometer chain 215a from being properly construed as the transport device. Withdrawal of the rejection of claims 1-17 over Babson is requested.

**Conclusion**

In view of the foregoing, claims 1-17 are submitted to be patentable over the prior art Babson analyzer. Favorable reconsideration of this application and the issuance of a Notice of Allowance are earnestly solicited.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Novak Druce Deposit Account No. 14-1437.

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